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his admirable temper and his literary deftness. Here, as always, he makes the law speak the language of the gentleman.

Another essay which will repay repeated perusal is that on The Teaching of English Law at Universities. It is an unanswerable plea for the highest equipment on the part of the teacher, and the most thorough and painstaking study on the part of the pupil. To this end he insists that "our law schools must be endowed as our colleges are endowed. If they are not, then the managers must needs consult the market, and consider what will pay: *they will bid for numbers of students instead of excellence of work.*"

THE AMERICAN CONSTITUTION. By FREDERICK JESUP STIMSON. New York: Charles Scribner's Sons. 1908. pp. 259.

In this small volume we have Professor Stimson's Lowell Institute Lectures, eight in number, delivered in 1907. In these he discusses "The National Powers," "The Rights of the States," and "The Liberties of the People," giving us a careful study of constitutional principles, forms and tendencies in the United States.

In the first three chapters, the author sets forth the great constitutional rights which characterize Anglo-Saxon liberty, and in chapter four their development is traced through English History. The fundamental rights or principles are: (1) government by law as distinguished from personal rule, (2) one law for all, which means the absence of special administrative law for the protection of officials, so common in Europe, and (3) complete liberty of action, subject to penalty after the act, but free from direction before it.

The third of these is stated thus: "The common law speaks only in damages. It has no notion of ordering a freeman to do something against his will." This leads to a study of the Injunction, which is a development from English Chancery jurisdiction,—but along continental rather than Saxon lines. While beneficent in intention, and often useful, it has been abused in this country until it has become the practice of companies, "instead of suing in damages, or using the local police protection, to get an order from the Federal judge addressed to the whole body of their employees, or even to all the world, ordering such people to do or not to do what they wish or what they complain of."

Comparing the English and American systems with each other, the author finds that the latter has made four important additions to the former. First, the written constitution to limit the powers of government and protect the minority. Second, the separation of powers so that the making and administering of law shall not fall into the same hands. Third, the establishment of two governments over the same individuals but with different jurisdictions. Fourth, the creation of a Court with authority to pronounce on the constitutionality and hence the validity of a law; from which it follows that in our system the last word is with the judiciary rather than with the legislature or the executive. "No other country in the world has this principle," and it "is the envy and the marvel of the rest of the civilized world."

The second half of the book deals with present tendencies in the United States, and it furnishes abundant food for serious thought. The author has made an exhaustive analysis of the constitution, showing the distribution of powers, with an illustrative diagram opposite the title page. He finds that "the constitution is largely composed of negatives." "Contrary to the apparent impression, the things reserved to the people are as many in number and greater in importance than those delegated to the Federal Power," and "every one of the powers so refused to the Federal Government is a power which in the centuries behind us has proved dangerous to the liberties of the English people when enjoyed by the king or a centralized government."

Among the serious tendencies of the present time the following are noted:

First, the tendency to ignore the reserved rights of the people; to invade the field from which the constitution aims to exclude all government activity. Expressions of this tendency the author finds in public utterances of President Roosevelt, and in various governmental acts which indicate impatience of constitutional restraint. "The fundamental error lying in these conceptions of our government is to suppose that all powers exercised in other countries * * * have been necessarily under the constitution reposed in some branch of the Government, State or Federal."

Second, the tendency to unite different functions of government in the same hands. This he finds in various administrative activities where the making of law and the execution of it are in the same hands. "Government by boards, by commissions, rather than by Congress and the other officers provided for that purpose in the constitution, is getting to be a danger that is not only in the Nation but in the States." "Nearly all these Boards are in effect law-makers, judges, and juries in their own affairs; and though there is sometimes in theory an appeal from them to the courts, it is almost impossible for an ordinary man who has a grievance to get beyond the Board or Commission if it decide against him."

Third, the tendency toward centralization by increasing Federal powers at the expense of those of the States. This process is now going on apace, largely along the line of regulation of interstate commerce. By this process the Federal government "will cease to be purely political, but will thrust its hand between every man and his neighbor, between every man and his own property. * * * The States will lose control of most of their business affairs, will lose the power to tax their own enterprises, will see their courts shorn of their jurisdiction. Hardly any business will be so small, so local, as to be left to the State Power to control."

The fourth serious phase of the present trend of affairs is the attitude of the people toward the fore-mentioned tendencies. It is distinctly one of approval. As strongly stated by the author, "The tendency of the time is the blind rush to cure an immediate evil, oblivious of all else, reckless of method or consequences." This is seen on every hand. It is changing the balance of powers so carefully adjusted in the constitution. Worst of all, it is manifested in a growing disregard for the rights of a minority in other than the religious and political fields, where the impulse to "live

and let live" is still strong. In all this, the people are being led by a popular President who is more than willing to lead in the direction in which they wish to be led. Suggestive in this connection is the author's warning note. "The English people in a thousand years' experience have found that their liberties were never so really in danger as when they knew it least, never so nearly lost as under the kings they liked best."

These representations deserve careful consideration. Indeed, the book as a whole is the most instructive study of the present constitutional situation in the United States which has yet appeared.

WILLS AND THE ADMINISTRATION OF THE ESTATES OF DECEASED PERSONS.
By WILLIAM PATTERSON BORLAND. Kansas City, Mo.: Vernon Law Book Company. 1907. pp. xvi, 311.

Professor Borland, who is the Dean of the Kansas City School of Law, calls attention in his preface to the fact that this volume "is the revision and publication of a series of lectures * * * which have been delivered yearly for the past twelve years to the senior class" of his school, and states that he has cited "all the decided cases on the law of wills in the states of Kansas and Missouri, as well as the leading cases in other states."

An examination of the Table of Cases shows to what a great extent the author has thus relied on the decisions of the courts of the two states of Missouri and Kansas. The total number of cases cited is 707, distributed as follows: Missouri and Kansas, 669; all other jurisdictions, 38. These 38 cases are distributed thus: U. S. Supreme Court, 13; U. S. Circuit Court of Appeals (a Missouri case), 1; England, 8; New York, 7; Massachusetts, 2; and one each from the states of Arkansas, California, Connecticut, Michigan, New Hampshire, North Carolina and Pennsylvania.

It appears also, that in dealing with the decisions of these other jurisdictions, the author has hardly shown the same thoroughness as in the case of the law of Missouri and Kansas. Thus in citing *Thorn v. de Breteuil*, 86 App. Div. (N. Y.) 405, no attention is called to the fact that on appeal to the Court of Appeals (179 N. Y. 64; June, 1904) the judgment below was modified in such a way as to deprive the statement of the opinion below, as cited by the author on p. 196, of any force as an authority on its own account, though the statement itself is in fact correct. This same case is cited again on p. 200 to support the statement that "Lord Thellusson's Act has been adopted in New York," a proposition which the case cited naturally does not justify. What the court says is, that the Thellusson Act "is the basis of our legislation." So the case of *Tilden v. Green* (1891), 130 N. Y. 29, is cited to support the proposition that "the English doctrine of *cy pres* does not exist in New York"; but no reference is made to the subsequent New York statutes, L. 1893, ch. 701, as amended, and Real Prop. L. sec. 93.

These points are mentioned, not at all to discredit the accuracy of the author within the particular field of Missouri and Kansas law to which he has avowedly devoted his chief attention, but merely to emphasize the fact that the work is hardly likely to prove of large practical value to the